



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Appl. No. : 10/068,119
Applicant : Feniosky Pena-Mora, et al.
Filed : February 6, 2002
T.C./A.U. : 2121
Examiner : Thomas H. Stevens
Docket No. : MIT-086AUS
Customer No. : 022494

Confirmation No.: 5759 2009 NOV 30 PM 4:39

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Certificate of Mailing (37 C.F.R. 1.8(a))

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20 Nov 2009
Date of Signature
and Mail Deposit

By: 
Kermit Robinson
Reg. No. 48,734
Attorney for Applicant(s)

LETTER UNDER 37 C.F.R. §1.28(c)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified patent application, now issued as 7,349,863, was filed on February 6, 2002, at which time status as a small entity was established in good faith. It was later discovered that such status as a small entity was established in error. On December 17, 2007, and in accordance with the provisions of 37 C.F.R. §1.28(c), Applicant filed, under Certificate of Mailing, papers (copy attached) to request that the error be excused along with a check, in order to pay the deficiency fee. Applicant has discovered that the above request was not processed by the USPTO and the check was not cashed.

Applicants representative contacted Examiner George Fallen and was informed that the deficiency paperwork and check must be re-submitted.

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Attached are copies of all of the documentation submitted by the Applicants on December 17, 2007, including a copy of a postcard stamped on December 20, 2007 by the USPTO, indicating receipt, and a copy of the check submitted but not cashed by the USPTO, in the amount \$1,452.

Also attached please find a new check for \$1452. Applicants submit that the error was made by the USPTO and not by the Applicants. Therefore, Applicants have not re-calculated the deficiency fee to account for a new fee schedule, and instead Applicants depend again upon the deficiency fee calculation sheet previously submitted on December 17, 2007, a copy of which is attached hereto.

The Assistant Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845, including but not limited to, any charges for extensions of time under 37 C.F.R. §1.136.

Dated: 20 Nov 2009

Respectfully submitted,
DALY, CROWLEY, MOFFORD & DURKEE, LLP

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